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8 UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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11 WILLIAM J. WHITSITT,  
12 Plaintiff,

13 v.

14 CITY OF STOCKTON, et al.,  
15 Defendants.  
16

No. 2:20-cv-00131 KJM AC PS

ORDER

17 Plaintiff is proceeding in this action pro se. This matter was accordingly referred to the  
18 undersigned by E.D. Cal. 302(c)(21). Plaintiff has filed a request for leave to proceed in forma  
19 pauperis (“IFP”), and has submitted the affidavit required by that statute. See 28 U.S.C.  
20 § 1915(a)(1). The motion to proceed IFP will therefore be granted.

21 I. SCREENING

22 The federal IFP statute requires federal courts to dismiss a case if the action is legally  
23 “frivolous or malicious,” fails to state a claim upon which relief may be granted, or seeks  
24 monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2).  
25 Plaintiff must assist the court in determining whether or not the complaint is frivolous, by drafting  
26 the complaint so that it complies with the Federal Rules of Civil Procedure (“Fed. R. Civ. P.”).  
27 The Federal Rules of Civil Procedure are available online at [www.uscourts.gov/rules-](http://www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-civil-procedure)  
28 [policies/current-rules-practice-procedure/federal-rules-civil-procedure](http://www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-civil-procedure).

1 Under the Federal Rules of Civil Procedure, the complaint must contain (1) a “short and  
2 plain statement” of the basis for federal jurisdiction (that is, the reason the case is filed in this  
3 court, rather than in a state court), (2) a short and plain statement showing that plaintiff is entitled  
4 to relief (that is, who harmed the plaintiff, and in what way), and (3) a demand for the relief  
5 sought. Fed. R. Civ. P. 8(a). Plaintiff’s claims must be set forth simply, concisely and directly.  
6 Fed. R. Civ. P. 8(d)(1). Forms are available to help pro se plaintiffs organize their complaint in  
7 the proper way. They are available at the Clerk’s Office, 501 I Street, 4th Floor (Rm. 4-200),  
8 Sacramento, CA 95814, or online at [www.uscourts.gov/forms/pro-se-forms](http://www.uscourts.gov/forms/pro-se-forms).

9 A claim is legally frivolous when it lacks an arguable basis either in law or in fact.  
10 Neitzke v. Williams, 490 U.S. 319, 325 (1989). In reviewing a complaint under this standard, the  
11 court will (1) accept as true all of the factual allegations contained in the complaint, unless they  
12 are clearly baseless or fanciful, (2) construe those allegations in the light most favorable to the  
13 plaintiff, and (3) resolve all doubts in the plaintiff’s favor. See Neitzke, 490 U.S. at 327; Von  
14 Saher v. Norton Simon Museum of Art at Pasadena, 592 F.3d 954, 960 (9th Cir. 2010), cert.  
15 denied, 564 U.S. 1037 (2011).

16 The court applies the same rules of construction in determining whether the complaint  
17 states a claim on which relief can be granted. Erickson v. Pardus, 551 U.S. 89, 94 (2007) (court  
18 must accept the allegations as true); Scheuer v. Rhodes, 416 U.S. 232, 236 (1974) (court must  
19 construe the complaint in the light most favorable to the plaintiff). Pro se pleadings are held to a  
20 less stringent standard than those drafted by lawyers. Haines v. Kerner, 404 U.S. 519, 520  
21 (1972). However, the court need not accept as true conclusory allegations, unreasonable  
22 inferences, or unwarranted deductions of fact. Western Mining Council v. Watt, 643 F.2d 618,  
23 624 (9th Cir. 1981). A formulaic recitation of the elements of a cause of action does not suffice  
24 to state a claim. Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-57 (2007); Ashcroft v. Iqbal,  
25 556 U.S. 662, 678 (2009).

26 To state a claim on which relief may be granted, the plaintiff must allege enough facts “to  
27 state a claim to relief that is plausible on its face.” Twombly, 550 U.S. at 570. “A claim has  
28 facial plausibility when the plaintiff pleads factual content that allows the court to draw the

1 reasonable inference that the defendant is liable for the misconduct alleged.” Iqbal, 556 U.S. at  
2 678. A pro se litigant is entitled to notice of the deficiencies in the complaint and an opportunity  
3 to amend, unless the complaint’s deficiencies could not be cured by amendment. See Noll v.  
4 Carlson, 809 F.2d 1446, 1448 (9th Cir. 1987), superseded on other grounds by statute as stated in  
5 Lopez v. Smith, 203 F.3d 1122 (9th Cir.2000)) (en banc).

6 A. The Complaint

7 Plaintiff brings suit against the City of Stockton, multiple Stockton police officers,  
8 Superior Court Judge J. Northup, state court employees, individuals who appear to be private  
9 attorneys and state prosecutors, and 25 “other unnamed defendants.” ECF No. 1 at 1. Plaintiff  
10 characterizes this case as a “civil rights suit at-law” and references numerous portions of the U.S.  
11 Constitution. Id. The complaint is very difficult to understand because of the manner in which it  
12 is written. Plaintiff references an instance in which he was prevented from attending the Bible  
13 College of his choice. Id. at 2. Plaintiff references a conspiracy amongst Stockton and San Joaquin  
14 police officers. Id. at 6. Plaintiff alleges the San Joaquin Court system is a criminal enterprise  
15 engaged in conspiracies. Id. at 7. Plaintiff alleges he was falsely arrested by “friends of Kelly  
16 and Nicky Morris” in the Stockton police department. Id. Plaintiff alleges his rights were  
17 violated because he was not served a copy of an alleged restraining order before being arrested.  
18 Id. at 9. Plaintiff alleges the San Joaquin County Probation Department searched his apartment  
19 unlawfully without a warrant on December 14, 2019. Id. at 11-12. Plaintiff appears to contend  
20 that his education at Bible College was interrupted or interfered with when a restraining order was  
21 placed against him. Id. at 17-19.

22 B. Analysis

23 Plaintiff’s complaint cannot be served because it does not state any cognizable legal claim  
24 as required by Fed. R. Civ. P. 12(b)(6) and because it does not contain a “short and plain”  
25 statement setting forth plaintiff’s entitlement to relief, or the relief that is sought, even though  
26 those things are required by Fed. R. Civ. P. 8(a)(1)-(3). The exact nature of what happened to  
27 plaintiff is unclear from the complaint, which does not present any clear legal claims or an  
28 understandable narrative to support plaintiff’s claims. The court cannot tell from examining the

1 complaint what legal wrong was done to plaintiff, by whom and when, or how any alleged harm  
2 is connected to the relief plaintiff seeks. Accordingly, the complaint does not contain a short and  
3 plain statement of facts, and it does not state a claim upon which relief can be granted.

4 The court also notes that at least one defendant, a judge, is likely immune from suit.  
5 “[G]enerally, a judge is immune from a suit for money damages.” Mireles v. Waco, 502 U.S. 9, 9  
6 (1991). Judicial immunity applies unless (1) the actions in question are nonjudicial; or (2) the  
7 actions in question, though judicial in nature, were taken in complete absence of jurisdiction. Id.  
8 at 11-12. Here, the complaint does not contain any facts that suggest either exception applies.  
9 Court employees may also come within the scope of the immunity, which extends “in appropriate  
10 circumstances to non jurists ‘who perform functions closely associated with the judicial  
11 process.’” In re Castillo, 297 F.3d 940, 948 (9th Cir. 2002) (quoting Cleavinger v. Saxner, 474  
12 U.S. 193, 200 (1985)). Similarly, prosecutors are entitled to immunity for acts that come within  
13 the scope of their prosecutorial functions. Imbler v. Pachtman, 424 U.S. 409 (1976).

14 Rather than recommending dismissal of the action at this time, the undersigned will  
15 provide plaintiff an opportunity to amend his complaint to allege a proper basis for jurisdiction  
16 and facts supporting a cognizable cause of action.

## 17 II. AMENDING THE COMPLAINT

18 If plaintiff chooses to amend the complaint, the amended complaint must contain a short  
19 and plain statement that alleges and supports specific legal claims. The allegations of the  
20 complaint must be set forth in sequentially numbered paragraphs, with each paragraph number  
21 being one greater than the one before, each paragraph having its own number, and no paragraph  
22 number being repeated anywhere in the complaint. Each paragraph should be limited “to a single  
23 set of circumstances” where possible. Rule 10(b). As noted above, forms are available to help  
24 plaintiffs organize their complaint in the proper way. They are available at the Clerk’s Office,  
25 501 I Street, 4th Floor (Rm. 4-200), Sacramento, CA 95814, or online at  
26 [www.uscourts.gov/forms/pro-se-forms](http://www.uscourts.gov/forms/pro-se-forms).

27 Plaintiff must avoid excessive repetition of the same allegations. Plaintiff must avoid  
28 narrative and storytelling. That is, the complaint should not include every detail of what

1 happened, nor recount the details of conversations (unless necessary to establish the claim), nor  
2 give a running account of plaintiff's hopes and thoughts. Rather, the amended complaint should  
3 contain only those facts needed to show how the defendant legally wronged the plaintiff.

4 The amended complaint must not force the court and the defendants to guess at what is  
5 being alleged against whom. See McHenry v. Renne, 84 F.3d 1172, 1177 (9th Cir. 1996)  
6 (affirming dismissal of a complaint where the district court was "literally guessing as to what  
7 facts support the legal claims being asserted against certain defendants"). The amended  
8 complaint must not require the court to spend its time "preparing the 'short and plain statement'  
9 which Rule 8 obligated plaintiffs to submit." Id. at 1180. The amended complaint must not  
10 require the court and defendants to prepare lengthy outlines "to determine who is being sued for  
11 what." Id. at 1179.

12 Also, the amended complaint must not refer to a prior pleading in order to make plaintiff's  
13 amended complaint complete. An amended complaint must be complete in itself without  
14 reference to any prior pleading. Local Rule 220. This is because, as a general rule, an amended  
15 complaint supersedes the original complaint. See Pacific Bell Tel. Co. v. Linkline  
16 Communications, Inc., 555 U.S. 438, 456 n.4 (2009) ("[n]ormally, an amended complaint  
17 supersedes the original complaint") (citing 6 C. Wright & A. Miller, Federal Practice &  
18 Procedure § 1476, pp. 556-57 (2d ed. 1990)). Therefore, in an amended complaint, as in an  
19 original complaint, each claim and the involvement of each defendant must be sufficiently  
20 alleged.

### 21 III. PRO SE PLAINTIFF'S SUMMARY

22 It is not clear that this case can proceed in federal court. The court cannot tell from your  
23 complaint what legal harm was done to you. Because the complaint as written does not present a  
24 clear set of facts or clear legal claims, it will not be served on defendants. Your lawsuit cannot  
25 proceed unless you fix the problems with your complaint.

26 You are being given 30 days to submit an amended complaint that provides a proper basis  
27 for federal jurisdiction. If you submit an amended complaint, it needs to explain in simple terms  
28 what laws or legal rights of yours were violated, by whom and how, and how those violations

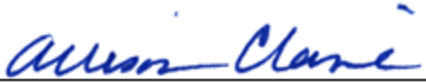
1 affected you. Without this information, the court cannot tell what legal claims you are trying to  
2 bring against the defendants. If you do not submit an amended complaint by the deadline, the  
3 undersigned will recommend that the case be dismissed.

4 IV. CONCLUSION

5 Accordingly, IT IS HEREBY ORDERED that:

- 6 1. Plaintiff's request to proceed in forma pauperis (ECF No. 2) is GRANTED;
- 7 2. Plaintiff shall have 30 days from the date of this order to file an amended complaint that  
8 names defendants who are amenable to suit, and which complies with the instructions  
9 given above. If plaintiff fails to timely comply with this order, the undersigned may  
10 recommend that this action be dismissed.

11 DATED: March 2, 2020

12   
13 ALLISON CLAIRE  
14 UNITED STATES MAGISTRATE JUDGE